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10
11 Attorneys for Plaintiff,
12 Teresa Timonen

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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 Teresa Timonen,

Case No.:

18 Plaintiff,

COMPLAINT FOR DAMAGES

19 vs.

FOR VIOLATIONS OF:

20 Wells Fargo Bank, N.A.,

**1. THE TELEPHONE CONSUMER
PROTECTION ACT**

21 Defendant.

JURY TRIAL DEMANDED

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1 Plaintiff, Teresa Timonen (hereafter “Plaintiff”), by undersigned counsel, brings
2 the following complaint against Wells Fargo Bank, N.A. (hereafter “Defendant”) and
3 alleges as follows:

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).
8
9 2. Jurisdiction of this Court arises under 47 U.S.C. § 227(b)(3).
10
11 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1331, where
12 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
13 where Defendant transacts business in this district.
14

15 **PARTIES**

16 4. Plaintiff is an adult individual residing in Eugene, Oregon, and is a
17 “person” as defined by 47 U.S.C. § 153(39).
18
19 5. Defendant is a business entity located in San Francisco, California, and is
20 a “person” as the term is defined by 47 U.S.C. § 153(39).
21

22 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

23 6. Upon information and belief, a financial obligation was allegedly
24 incurred by a person who is not a party to this lawsuit (hereafter “Debtor”).
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26 7. Plaintiff is not the Debtor, has no location information regarding the
27 Debtor, and has no responsibility for repayment of Debtor’s debt.
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1 8. At all times mentioned herein where Defendant communicated with any
2 person via telephone, such communication was done via Defendant's agent,
3 representative or employee.
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5 9. At all times mentioned herein, Plaintiff utilized a cellular telephone
6 service and was assigned the following telephone number: 805-xxx-7131 (hereafter
7 "Number").
8

9 10. Defendant placed calls to Plaintiff's Number in an attempt to collect a
10 debt.
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12 11. The aforementioned calls were placed using an automatic telephone
13 dialing system ("ATDS") and/or by using an artificial or prerecorded voice
14 ("Robocalls").
15

16 12. When Plaintiff answered calls from Defendant she heard a prerecorded
17 message asking for Bryce Burke.
18

19 13. Plaintiff never provided Defendant with consent to place prerecorded
20 calls to her Number.
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22 14. Defendant placed an excessive number calls to Plaintiff's Number
23 without Plaintiff's consent.
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COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT, 47
U.S.C. § 227, et seq.**

15. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

16. The TCPA prohibits Defendant from using, other than for emergency purposes, an ATDS and/or Robocalls when calling Plaintiff's Number absent Plaintiff's prior express consent to do so. *See* 47 U.S.C. § 227(b)(1).

17. Defendant's telephone system has the earmark of using an ATDS and/or using Robocalls in that Plaintiff, upon answering calls from Defendant, heard a prerecorded message asking for Bryce Burke.

18. Defendant called Plaintiff's Number using an ATDS and/or Robocalls without Plaintiff's consent in that Defendant never had Plaintiff's prior express consent to do so.

19. Defendant continued to willfully call Plaintiff's Number using an ATDS and/or Robocalls knowing that it lacked the requisite consent to do so in violation of the TCPA

20. Plaintiff was harmed and suffered damages as a result of Defendant's actions

21. The TCPA creates a private right of action against persons who violate the Act. *See* 47 U.S.C. § 227(b)(3).

22. As a result of each call made in violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages.

23. As a result of each call made knowingly and/or willingly in violation of the TCPA, Plaintiff may be entitled to an award of treble damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- A. Statutory damages of \$500.00 for each call determined to be in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3);
- B. Treble damages for each violation determined to be willful and/or knowing under the TCPA pursuant to 47 U.S.C. § 227(b)(3); and
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

20 | DATED: November 26, 2019

TRINETTE G. KENT

By: /s/ Trinette G. Kent
Trinette G. Kent, Esq.
Lemberg Law, LLC
Attorney for Plaintiff, Teresa